



# WISCONSIN REGULATORY DIGEST

## A Publication of the DEPARTMENT OF REGULATION AND LICENSING FOR THE PRACTICE OF ACUPUNCTURE

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### Access to Health Care Records

Wisconsin Statute 146.83, concerning access to health care records has been amended by 1997 Wis. Act 157 to require that health care providers release records directly to a patient's health care provider upon request and with a statement of informed consent. The amendment also prohibits concealing or withholding health care records from a patient's health care provider or to prevent or obstruct an investigation or prosecution. Violations of the statute as amended still include actual damages and exem-

1997 WI Act 157t are available from the department or via Internet at <http://www.legis.state.wi.us/billtext/acts/97acts.html>.

### Tax Delinquency, A New Basis for Denial, Suspension and Revocation

Since 1996, the law has required the department to verify that applicants for credential renewal are not delinquent in payment of Wisconsin state taxes. The department is required to deny renewal if the Department of Revenue certifies that an applicant is tax delinquent.

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plary damages along with injunctive relief. This new law was effective in April 1998. Copies of

Effective January 1, 1999, the scope of the law will expand to apply to other state agencies, including the Department of Transportation and the Department of Natural Resources. The law will also change to include applicants for new licenses and current credential holders. After January 1, 1999, the Department of Regulation and Licensing is required to deny the applications for an initial credential if the applicant is certified by the Department of Revenue as being liable for delinquent state taxes. The Department will also be required to revoke the credential of current holders who are tax delinquent. A person denied

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or revoked because of a tax delinquency status may request the Department of Revenue to review the certificate of tax delinquency at a hearing.

The text of the new law is in 1997 Wisconsin Act 237 at section 307, and sections 532-551. Act 237 is available in most public libraries and can be viewed on the Internet at <http://www.legis.state.wi.us/billtext/acts/97acts.html>.

### **Administrative Warnings May be Issued Under New Law**

Examining Boards, the department and other regulatory authorities are authorized to issue administrative warnings under a new law effective May 5, 1998. An administrative warning may be issued to close an investigation if a regulatory authority determines that no further action is warranted because the complaint involves a first occurrence of a minor violation and the warning adequately protects the public.

Under the law, an administrative warning puts the professional on notice that if the misconduct is repeated, the incident that was the basis for the warning can be used to prove that the person warned knew the conduct was prohibited. A warning is not discipline and may be issued without a formal complaint or a hearing. The contents of the warning shall be private and confidential.

A credential holder may have a warning reviewed before the department or board that issued the warning. The law requires the department to promulgate rules establishing uniform procedures for administrative warnings. 1997 Wisconsin Act 139 is available from the department and can be viewed on the Internet at <http://www.legis.state.wi.us/billtext/acts/97acts.html>.

### **The Role of Public Members of Licensure Boards by Lorayne Ritt**

Public members have served on licensure boards of the Department of Regulation and Licensing since 1975. In 1983, Wisconsin Act 403 increased the number of public members on licensure boards to two. Public board members are initially inexperienced in the profession being regulated and not connected to the regulated profession or licensed by the Board on which they serve.

Public members represent the consumer perspective. Contributing to board decisions with the consumer's interest in mind provides balance

to a Board to prevent bias toward the profession being regulated.

Consumer protection is the basis of regulation. The public member must always be aware of the consumer advocacy role which is theirs. Technical expertise is provided by the professional members while public members provide consumer perspective. Together they balance consumer interest with safe, competent service.

The public member tries to work toward mutual respect and good working relations with other board members. It is also incumbent on the public member to make other board members aware of the concerns of the people we represent.

### **Law Sanctions Professionals With Delinquent Support and Collect Social Security Numbers**

In April 1998, legislation was enacted which provides for suspension of credentials for failure to pay support or for failure to comply with a subpoena or warrant related to paternity or support proceedings. The determination of failure to pay support or failure to comply with a warrant or subpoena will be made by county support agencies or the Department of Workforce Development.

The Department of Workforce Development, after proper notice and provision for hearing, will certify to the Department of Regulation and Licensing that a professional who holds a credential issued by the department, or who is applying for a credential is delinquent in support or has failed to comply with a subpoena or warrant. The department then shall restrict, limit or suspend a credential or deny an application for an initial credential or for renewal of a credential. The credentials will remain restricted, limited or suspended until the department receives notification of release from the Department of Workforce Development. However, credentials shall not be sanctioned for more than five years if instituted because of delinquency in support, or for more than six months if instituted for failure to comply with a subpoena or warrant. This act became effective in April 1998.

The new family support collection act, 1997 WI Act 191, requires the Department of Regulation and Licensing to collect social security numbers from all individuals who apply for new credentials

Applications from individuals who do not submit their social security number will be denied. The social security numbers collected may be disclosed only to the Department of Workforce Development for the purpose of enforcing the Family Support Collection Act, or to the Department of Revenue for the purpose of checking for tax delinquencies.

Wisconsin Act 191 is available in most public libraries and can be viewed on the Internet at <http://www.legis.state.wi.us/billtext/acts/97acts.html>.

### **Complaints Against Credential Holders**

Complaints are processed in the following manner:

All complaints received by the Department are routed to the Division of Enforcement (DOE) where they are logged into the computer and given a number.

Complaints are screened by several committee members and the supervisor of the DOE prosecutors and the supervisor of the DOE investigators. The complaint screening process results in a decision to open or not open a complaint for investigation. Sometimes additional information is requested of the complainant at this stage of the process.

If a complaint is opened for investigation, it is assigned to a team in DOE. Teams consist of prosecutors, investigators, legal assistants and, in some cases, auditors. A specific prosecutor and investigator is assigned to the case and the investigator commences an investigation as soon as possible. The investigation generally includes corresponding with the complainant, the licensee and other people with relevant information. Documents are reviewed and the investigator often interviews people to obtain more information.

A committee member is assigned to the case as an advisor. The committee member offers suggestions to the investigator and, after the investigation is concluded, the advisor recommends that the case be closed for a certain specified reason or that the case proceed to possible disciplinary action.

If the case advisor recommends possible disciplinary action, a prosecutor reviews the file and requests additional investigation, if needed. The prosecutor usually offers the licensee an opportunity to agree to a resolution of the matter. The offer may be in the form of a written stipulation for some type of discipline, such as a revocation, suspension, limitation, reprimand, and/or an assessment of all or part of the costs of the investigation and prosecution. If the licensee rejects the stipulation, the attorney schedules a hearing before an administrative law judge. The hearing is like a trial and the licensee may have an attorney represent him or her. After the hearing, the administrative law judge prepares a proposed decision and refers it to the Department. If the Department disagrees with a proposed decision of an administrative law judge, it may change parts of the proposed decision, but it will have to explain why it is making the change.

If a case advisor recommends that a case be closed, the case is reviewed by the committee at its next meeting and the committee either concurs or refers the case for disciplinary action. Stipulations and proposed decision are also referred to the committee for final disciplinary action. If the committee disagrees with a proposed stipulation, the committee may refer the case back to the prosecutor for more negotiations or, possibly, a hearing.

Due process is built into the complaint process. Credential holders or their attorneys are given many opportunities to respond to proposals and to object to decisions. Ultimately, if a credential holder disagrees with the committee's disciplinary decision, the credential holder may appeal the case to a Court.

Letters are sent to complainants and credential holders at various stages in the process, informing them of receipt of a complaint and the final disposition of a complaint.

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Acupuncture Advisory Committee  
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# REGULATORY DIGEST

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## Telephones

**Automated Phone System for Acupuncture, Chiropractic, Massage therapists and Bodyworkers, Music, Art and Dance Therapists, Marriage & Family Therapists, Nursing, Optometry, Professional Counselors, Psychology, & Social Workers: (608) 266-0145**

Press 1, then 4    **Application Requests for License & Continuing Education**  
Press 2            **Information on Status of Pending Applications**  
Press 3            **Information on Renewal, Verifications, Letters of Good Standing & Name or Address Changes**  
Press 4            **Complaint Filing Information**  
Press 5            **Application Questions**  
Press 6            **Repeat Menu Choices**  
**FAX                (608) 261-7083**

## Quick Keys

The following voice mail “**short cuts**” could be sent out with renewal notices and/or otherwise published:

To request a license application for your profession, just dial (608) 266-0145, then enter the Quick Keys number below for the profession you want:

Acupuncture    1-8

## 1999 Meeting Dates

January 19, April 27, July 27, October 26.

## Verifications

All requests for verification of license status must be in writing. There is no charge for this service.

## Endorsements

Requests for endorsements to other states must be in writing. The cost is \$10. Please make check or money order payable to the Department of Regulation and Licensing.

## ALERT

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The next renewal for Acupuncture will be June 30, 1999. Renewal Notices will be mailed about 6 weeks prior to that date. Please remember to include your Social Security Number on your renewal form.

## Visit the Department's Web Site

<http://badger.state.wi.us/agencies/drl/>  
Send comments to [dorl@mail.state.wi.us](mailto:dorl@mail.state.wi.us)

## Digests on Web Site

January, 1998; June, 1998.

## Wisconsin Statutes and Code

Copies of the Acupuncture Advisory Committee Statutes and Administrative Code can be ordered through the Bureau Office. Include your name, address, county and a check payable to the Department of Regulation and Licensing in the amount of \$5.28. The latest edition is dated June, 1998.

## Change of Name or Address?

Please photocopy the mailing label of this digest, make changes in name or address, and return it to the Department. Confirmation of changes are not automatically provided.

**WIS. STATS. S. 440.11 ALLOWS FOR A \$50 PENALTY TO BE IMPOSED WHEN CHANGES ARE NOT REPORTED WITHIN 30 DAYS.**